

Senate File 2235 - Introduced

SENATE FILE 2235
BY COMMITTEE ON STATE
GOVERNMENT

(SUCCESSOR TO SSB 3138)

A BILL FOR

1 An Act concerning government accountability and relating
2 to service contract requirements and reporting and other
3 requirements concerning the department of administrative
4 services and other state agencies.
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 DIVISION I
2 REPORTING AND DEPARTMENT OF ADMINISTRATIVE
3 SERVICES OPERATIONS

4 Section 1. Section 7A.3, subsection 2, Code 2014, is amended
5 by striking the subsection.

6 Sec. 2. Section 8A.110, subsection 5, Code 2014, is amended
7 by striking the subsection.

8 Sec. 3. Section 8A.111, subsection 2, Code 2014, is amended
9 to read as follows:

10 2. ~~Internal service fund service business plans and~~
11 ~~financial reports as required under section 8A.123, subsection~~
12 ~~5, paragraph "a", and an An annual internal service fund~~
13 ~~expenditure report as required under section 8A.123, subsection~~
14 ~~5, paragraph "b".~~

15 Sec. 4. Section 8A.111, subsections 5 and 11, Code 2014, are
16 amended by striking the subsections.

17 Sec. 5. Section 8A.123, subsection 5, paragraph a, Code
18 2014, is amended by striking the paragraph.

19 Sec. 6. Section 8A.315, subsection 2, Code 2014, is amended
20 by adding the following new paragraph:

21 NEW PARAGRAPH. e. Notwithstanding the requirements of this
22 subsection regarding the purchase of recycled printing and
23 writing paper, the department may purchase printing and writing
24 paper in lieu of recycled paper if the department determines
25 that the purchase will result in significant savings to the
26 state.

27 Sec. 7. Section 8A.321, subsection 6, paragraph c,
28 subparagraph (1), Code 2014, is amended to read as follows:

29 (1) ~~The department shall annually issue a request for~~
30 ~~proposals for leasing privately owned office space for state~~
31 ~~employees in the downtown area of the city of Des Moines.~~
32 Prior to replacing or renovating publicly owned buildings or
33 relocating any state agencies at the seat of government to
34 any space in publicly owned buildings, the department shall
35 issue a request for proposals for leasing privately owned

1 office space for state employees in the downtown area of the
2 city of Des Moines and shall use such proposals to compare the
3 costs of privately owned space to publicly owned space. The
4 department shall locate state employees in office space in
5 the most cost-efficient manner possible. In determining cost
6 efficiency, the department shall consider all costs of the
7 publicly owned space, the costs of the original acquisition
8 of the publicly owned space, the costs of tenant improvements
9 to the publicly owned space, and the anticipated economic and
10 useful life of the publicly owned building space.

11 Sec. 8. Section 8A.362, subsection 4, paragraph c, Code
12 2014, is amended by striking the paragraph.

13 Sec. 9. Section 8A.378, unnumbered paragraph 3, Code 2014,
14 is amended to read as follows:

15 The department shall negotiate implementation of the plan
16 with the city of Des Moines with the goal of entering into
17 a memorandum of understanding in relation to the plan. ~~The~~
18 ~~department shall provide the governor and the capitol planning~~
19 ~~commission with quarterly reports regarding progress made~~
20 ~~on the capitol view preservation plan and execution of the~~
21 ~~memorandum of understanding.~~

22 Sec. 10. Section 8A.504, subsection 1, paragraphs a, b, and
23 d, Code 2014, are amended to read as follows:

24 a. "*Collection entity*" means the department of
25 administrative services and any other state public agency that
26 maintains a separate accounting system and elects to establish
27 a debt collection setoff procedure for collection of debts owed
28 to the ~~state or its agencies~~ public agency.

29 b. "*Person*" does not include a state public agency.

30 d. "*State* Public agency" means a board, commission,
31 department, including the department of administrative
32 services, or other administrative office or unit of the
33 state of Iowa or any other state entity reported in the
34 Iowa comprehensive annual financial report, or a political
35 subdivision of the state, or an office or unit of a political

1 subdivision. *"State "Public agency"* does include the clerk
2 of the district court as it relates to the collection of a
3 qualifying debt. *"State "Public agency"* does not include the
4 general assembly or the governor.

5 Sec. 11. Section 8A.504, subsections 2, 3, and 5, Code 2014,
6 are amended to read as follows:

7 2. *Setoff procedure.* The collection entity shall establish
8 and maintain a procedure to set off against any claim owed to a
9 person by a state public agency any liability of that person
10 owed to a state public agency, a support debt being enforced
11 by the child support recovery unit pursuant to chapter 252B,
12 or such other qualifying debt. The procedure shall only apply
13 when at the discretion of the director it is feasible. The
14 procedure shall meet the following conditions:

15 a. Before setoff, a person's liability to a state public
16 agency and the person's claim on a state public agency shall be
17 in the form of a liquidated sum due, owing, and payable.

18 b. Before setoff, the state public agency shall obtain
19 and forward to the collection entity the full name and social
20 security number of the person liable to it or to whom a claim is
21 owing who is a natural person. If the person is not a natural
22 person, before setoff, the state public agency shall forward to
23 the collection entity the information concerning the person as
24 the collection entity shall, by rule, require. The collection
25 entity shall cooperate with other state public agencies in
26 the exchange of information relevant to the identification
27 of persons liable to or claimants of state public agencies.
28 However, the collection entity shall provide only relevant
29 information required by a state public agency. The information
30 shall be held in confidence and used for the purpose of setoff
31 only. Section 422.72, subsection 1, does not apply to this
32 paragraph.

33 c. Before setoff, a state public agency shall, at least
34 annually, submit to the collection entity the information
35 required by paragraph "b" along with the amount of each person's

1 liability to and the amount of each claim on the state public
2 agency. The collection entity may, by rule, require more
3 frequent submissions.

4 d. Before setoff, the amount of a person's claim on a state
5 public agency and the amount of a person's liability to a state
6 public agency shall constitute a minimum amount set by rule of
7 the collection entity.

8 e. Upon submission of an allegation of liability by a state
9 public agency, the collection entity shall notify the state
10 public agency whether the person allegedly liable is entitled
11 to payment from a state public agency, and, if so entitled,
12 shall notify the state public agency of the amount of the
13 person's entitlement and of the person's last address known to
14 the collection entity. Section 422.72, subsection 1, does not
15 apply to this paragraph.

16 f. (1) Upon notice of entitlement to a payment, the
17 state public agency shall send written notification to that
18 person of the state public agency's assertion of its rights
19 to all or a portion of the payment and of the state public
20 agency's entitlement to recover the liability through the
21 setoff procedure, the basis of the assertion, the opportunity
22 to request that a jointly or commonly owned right to payment
23 be divided among owners, and the person's opportunity to
24 give written notice of intent to contest the amount of the
25 allegation. ~~The state agency shall send a copy of the notice~~
26 ~~to the collection entity.~~ A public agency shall provide the
27 person with an opportunity to contest the liability. A state
28 public agency subject to chapter 17A shall give notice, conduct
29 hearings, and allow appeals in conformity with chapter 17A.

30 (2) However, upon submission of an allegation of the
31 liability of a person which is owing and payable to the
32 clerk of the district court and upon the determination by the
33 collection entity that the person allegedly liable is entitled
34 to payment from a state public agency, the collection entity
35 shall send written notification to the person which states the

1 assertion by the clerk of the district court of rights to all
2 or a portion of the payment, the clerk's entitlement to recover
3 the liability through the setoff procedure, the basis of the
4 assertions, the person's opportunity to request within fifteen
5 days of the mailing of the notice that the collection entity
6 divide a jointly or commonly owned right to payment between
7 owners, the opportunity to contest the liability to the clerk
8 by written application to the clerk within fifteen days of the
9 mailing of the notice, and the person's opportunity to contest
10 the collection entity's setoff procedure.

11 *g.* Upon the timely request of a person liable to a ~~state~~
12 public agency or of the spouse of that person and upon receipt
13 of the full name and social security number of the person's
14 spouse, a ~~state~~ public agency shall notify the collection
15 entity of the request to divide a jointly or commonly owned
16 right to payment. Any jointly or commonly owned right to
17 payment is rebuttably presumed to be owned in equal portions
18 by its joint or common owners.

19 *h.* The collection entity shall, after the ~~state~~ public
20 agency has sent notice to the person liable or, if the
21 liability is owing and payable to the clerk of the district
22 court, the collection entity has sent notice to the person
23 liable, set off the amount owed to the agency against any
24 amount which a ~~state~~ public agency owes that person. The
25 collection entity shall refund any balance of the amount to
26 the person. The collection entity shall periodically transfer
27 amounts set off to the ~~state~~ public agencies entitled to them.
28 If a person liable to a ~~state~~ public agency gives written
29 notice of intent to contest an allegation, a ~~state~~ public
30 agency shall hold a refund or rebate until final disposition
31 of the allegation. Upon completion of the setoff, a ~~state~~
32 public agency shall notify in writing the person who was liable
33 or, if the liability is owing and payable to the clerk of the
34 district court, shall comply with the procedures as provided
35 in paragraph "j".

1 *i.* The department of revenue's existing right to credit
2 against tax due or to become due under section 422.73 is not to
3 be impaired by a right granted to or a duty imposed upon the
4 collection entity or other ~~state~~ public agency by this section.
5 This section is not intended to impose upon the collection
6 entity or the department of revenue any additional requirement
7 of notice, hearing, or appeal concerning the right to credit
8 against tax due under section 422.73.

9 *j.* If the alleged liability is owing and payable to the
10 clerk of the district court and setoff as provided in this
11 section is sought, all of the following shall apply:

12 (1) The judicial branch shall prescribe procedures to
13 permit a person to contest the amount of the person's liability
14 to the clerk of the district court.

15 (2) The collection entity shall, except for the procedures
16 described in subparagraph (1), prescribe any other applicable
17 procedures concerning setoff as provided in this subsection.

18 (3) Upon completion of the setoff, the collection entity
19 shall file, at least monthly, with the clerk of the district
20 court a notice of satisfaction of each obligation to the
21 full extent of all moneys collected in satisfaction of the
22 obligation. The clerk shall record the notice and enter a
23 satisfaction for the amounts collected and a separate written
24 notice is not required.

25 *k.* If the alleged liability is owing and payable to a
26 community college and setoff pursuant to this section is
27 sought, both of the following shall apply:

28 (1) In addition to satisfying other applicable setoff
29 procedures established under this subsection, the community
30 college shall prescribe procedures to permit a person to
31 contest the amount of the person's liability to the community
32 college. Such procedures shall be consistent with and ensure
33 the protection of the person's right of due process under Iowa
34 law.

35 (2) The collection entity shall, except for the procedures

1 prescribed pursuant to subparagraph (1), prescribe any other
2 applicable procedures concerning setoff as provided in this
3 subsection.

4 3. In the case of multiple claims to payments filed under
5 this section, priority shall be given to claims filed by the
6 child support recovery unit or the foster care recovery unit,
7 next priority shall be given to claims filed by the clerk of
8 the district court, next priority shall be given to claims
9 filed by the college student aid commission, next priority
10 shall be given to claims filed by the investigations division
11 of the department of inspections and appeals, and last priority
12 shall be given to claims filed by other ~~state~~ public agencies.
13 In the case of multiple claims in which the priority is not
14 otherwise provided by this subsection, priority shall be
15 determined in accordance with rules to be established by the
16 director.

17 5. Under substantive rules established by the director, the
18 department shall seek reimbursement from other ~~state~~ public
19 agencies to recover its costs for setting off liabilities.

20 Sec. 12. Section 8B.9, subsection 2, Code 2014, is amended
21 to read as follows:

22 2. ~~Internal service fund service business plans and~~
23 ~~financial reports as required under section 8B.13, subsection~~
24 ~~5, paragraph "a", and an~~ An annual internal service fund
25 expenditure report as required under section 8B.13, subsection
26 5, paragraph "b".

27 Sec. 13. Section 8B.13, subsection 5, paragraph a, Code
28 2014, is amended by striking the paragraph.

29 Sec. 14. Section 70A.25, subsection 3, Code 2014, is amended
30 by striking the subsection.

31 Sec. 15. Section 99D.2, subsection 3, Code 2014, is amended
32 to read as follows:

33 3. "*Claimant agency*" means a ~~state~~ public agency as
34 defined in section 8A.504, subsection 1, or the state court
35 administrator as defined in section 602.1101.

1 Sec. 16. Section 99F.1, subsection 4, Code 2014, is amended
2 to read as follows:

3 4. "*Claimant agency*" means a state public agency as
4 defined in section 8A.504, subsection 1, or the state court
5 administrator as defined in section 602.1101.

6 Sec. 17. 2003 Iowa Acts, chapter 179, section 21, unnumbered
7 paragraph 4, as amended and redesignated as subsection 6, by
8 2005 Iowa Acts, chapter 161, section 1, is amended to read as
9 follows:

10 ~~6. The department or agency receiving funds under this~~
11 ~~section shall report monthly to the fiscal committee of the~~
12 ~~legislative council on the use of the funds.~~

13 Sec. 18. REPEAL. Section 8D.10, Code 2014, is repealed.

14 DIVISION II

15 SERVICE CONTRACTS

16 Sec. 19. Section 8.47, subsection 1, unnumbered paragraph
17 1, Code 2014, is amended to read as follows:

18 The department of administrative services, in cooperation
19 with the office of attorney general and the department of
20 management, shall adopt uniform terms and conditions for
21 service contracts executed by a department or establishment
22 benefiting from service contracts which terms and conditions
23 shall be consistent with the contractual requirements of
24 chapter 8F. The terms and conditions shall include but are not
25 limited to all of the following:

26 Sec. 20. Section 8F.3, subsection 3, Code 2014, is amended
27 to read as follows:

28 3. Prior to entering into a service contract with a
29 recipient entity, the oversight agency shall ~~determine~~ do all
30 of the following:

31 a. Determine whether the recipient entity can reasonably
32 be expected to comply with the requirements of the service
33 contract. If the oversight entity is unable to determine
34 whether the recipient entity can reasonably be expected
35 to comply with the requirements of the service contract,

1 the oversight entity shall request such information from
2 the recipient entity as described in subsection 1 to make
3 a determination. If the oversight agency determines from
4 the information provided that the recipient entity cannot
5 reasonably be expected to comply with the requirements of the
6 service contract, the oversight agency shall not enter into the
7 service contract.

8 b. Perform a cost comparison establishing whether the
9 contract costs from the proposed service contract are less
10 than the costs of having the services provided by an agency.
11 Contract costs shall include direct costs, including salaries
12 and fringe benefits, indirect overhead costs, including the
13 contractor's proportional share of existing administrative
14 salaries and benefits, rent and equipment costs, utilities,
15 and materials. Additionally, transition costs, including
16 unemployment compensation, shall be included in the analysis of
17 contract costs. If the oversight agency determines from the
18 information provided that the contract costs of the recipient
19 entity are not less than the costs of having the services
20 provided by an agency, the oversight agency shall not enter
21 into the service contract.

22 c. If the proposed service contract may result in reduced
23 public employment by an agency in an area, perform an
24 economic impact analysis to consider the impact of the service
25 contract on the possible loss of employment or income in the
26 affected area, impact on social services to include public
27 assistance programs, economic impact on local businesses, any
28 possible changes in tax revenue for the affected area, and
29 any environmental impacts that may result from the service
30 contract.

31 Sec. 21. Section 8F.3, Code 2014, is amended by adding the
32 following new subsection:

33 NEW SUBSECTION. 4. A service contract with a recipient
34 entity shall include the following terms and conditions:

35 a. Specific performance criteria and cost parameters with

1 termination provisions for failure to meet the performance
2 criteria and cost parameters.

b. A requirement that the compensation paid to employees of a recipient entity pursuant to the service contract shall be comparable to the compensation paid to public employees performing similar work or the average private sector wage for similar work, whichever is less.

8 c. A provision prohibiting the automatic renewal of
9 the terms of a service contract without complying with the
10 requirements of this section prior to renewing the service
11 contract.

12 d. A provision prohibiting the payment for services under
13 the service contract regardless of whether the services are
14 actually provided.

15 Sec. 22. Section 8F.4, Code 2014, is amended by adding the
16 following new subsection:

17 NEW SUBSECTION. 4. An oversight agency shall make
18 information described in section 8F.3, subsection 3, paragraphs
19 "b" and "c", and information required to be reported by a
20 recipient agency pursuant to this section available to the
21 public.

22 Sec. 23. Section 8G.3, subsection 3, paragraph a, Code 2014,
23 is amended by adding the following new subparagraph:

24 NEW SUBPARAGRAPH. (10) A recipient entity as defined in
25 section 8F.2.

26 Sec. 24. Section 8G.4, subsection 2, Code 2014, is amended
27 by adding the following new paragraph:

28 NEW PARAGRAPH. *Oj.* Information required to be provided
29 pursuant to chapter 8F.

30	EXPLANATION
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31 The inclusion of this explanation does not constitute agreement with
32 the explanation's substance by the members of the general assembly.

33 This bill concerns government accountability and includes
34 provisions relating to service contracts, state government
35 reporting requirements, and the department of administrative

1 services.

2 Division I of this bill concerns various reporting and other
3 time-specific or purchasing requirements applicable to the
4 department of administrative services (DAS) and other state
5 agencies.

6 Code section 7A.3, providing for biennial reports for
7 various state officials and departments, is amended by striking
8 the requirement that the officials and departments covered by
9 this Code section also file a summary report in the year the
10 biennial report is not required.

11 Code section 8A.110, concerning the state employee
12 suggestion system, is amended by striking the requirement that
13 each state agency keep a record of suggestions implemented for
14 up to one year and the requirement that the DAS director file
15 a report with the governor and the general assembly on the
16 program each fiscal year.

17 Code section 8A.123, concerning department internal service
18 funds, is amended by striking the requirement that the DAS
19 director annually provide internal service fund service
20 business plans and financial reports to the department of
21 management and the general assembly. Code section 8A.111,
22 concerning DAS reporting requirements, is also amended to
23 conform to this change.

24 Code section 8A.315, concerning the purchase of recycled
25 products, is amended to allow the department of administrative
26 services to purchase nonrecycled printing and writing paper if
27 the purchase will result in significant savings to the state.

28 Code section 8A.321, concerning physical resources and
29 facility management, is amended to remove the requirement
30 that DAS annually issue a request for proposals for leasing
31 privately owned office space for state employees in the
32 downtown area of the city of Des Moines. Instead, the bill
33 provides that DAS will issue the request for proposals when
34 considering replacing or renovating publicly owned buildings or
35 relocating any state agencies at the seat of government to any

1 space in publicly owned buildings.

2 Code section 8A.362, concerning fleet management, is amended
3 to eliminate the requirement that the DAS director submit an
4 annual corporate average fuel economy standards compliance
5 report to the economic development authority. Code section
6 8A.111, concerning DAS reporting requirements, is also amended
7 to conform to this change.

8 Code section 8A.378, concerning state capitol view
9 preservation, is amended to delete the requirement that
10 DAS provide quarterly reports relative to the capitol view
11 preservation plan to the governor and the capitol planning
12 commission.

13 Code section 8A.504, concerning setoff procedures, is
14 amended to eliminate the requirement that the state agency
15 asserting a setoff payment against a person send a copy of the
16 notice sent to that person to DAS or other state agency that
17 has established a debt collection setoff procedure. The Code
18 section is also amended to provide that all public agencies
19 eligible to use the setoff procedures shall provide the debtor
20 with an opportunity to contest the liability. Finally, the
21 bill redesignates the term as "public agency" rather than the
22 current "state agency" in Code section 8A.504 while keeping the
23 definition the same and makes changes to other Code provisions
24 reflecting the redesignated term.

25 Code section 8B.13, concerning internal service funds, is
26 amended by striking the requirement that the chief information
27 officer annually provide internal service fund service business
28 plans and financial reports to the department of management and
29 the general assembly. Code section 8B.9, concerning reporting
30 requirements, is also amended to conform to this change.

31 Code section 70A.25, concerning educational leave, is
32 amended to eliminate the reporting and review requirements
33 relative to the program contained within that Code section.

34 2003 Iowa Acts, chapter 179, section 21, as amended in 2004
35 and 2005, concerning an appropriation related to military pay

1 differential, is amended to eliminate the requirement that each
2 department or agency receiving funds from this appropriation
3 report monthly to the fiscal committee of the legislative
4 council on the use of the funds.

5 Code section 8D.10, concerning report of savings by state
6 agencies concerning their use of the Iowa communications
7 network, is repealed.

8 Division II of this bill concerns service contracts entered
9 into by a government entity.

10 Code section 8.47, concerning service contracts entered into
11 by a state executive branch department, is amended to provide
12 that the standard terms and conditions of a service contract
13 shall be consistent with the contractual requirements of Code
14 chapter 8F.

15 Code chapter 8F, establishing accountability requirements
16 for certain service contracts, is amended. "Service contract"
17 is defined by the Code chapter as a contract between a
18 government entity, called an oversight agency, and a private
19 or other intergovernmental entity, called a recipient entity,
20 where federal or state moneys are involved for a service or
21 services when the predominant factor, thrust, and purpose of
22 the contract as reasonably stated is for the provision of
23 services.

24 Code section 8F.3, subsection 3, concerning contractual
25 requirements for service contracts, is amended to require an
26 oversight agency to perform a cost comparison and an economic
27 impact analysis prior to entering into a service contract.
28 The cost comparison requires a determination that a service
29 contract will result in lower contract costs than having the
30 services provided by state government. The economic impact
31 analysis concerns a determination of the impact on employment,
32 economic activity, and public assistance if public employment
33 in a particular area is reduced pursuant to a service contract.

34 Code section 8F.3 is further amended to require a service
35 contract to include performance criteria, provisions governing

1 compensation paid to employees of a recipient entity,
2 provisions prohibiting automatic renewal of a service contract,
3 and provisions prohibiting payment regardless of whether the
4 services are actually provided.

5 Code section 8F.4, concerning reporting requirements,
6 is amended to require an oversight agency to make certain
7 information described in Code section 8F.3, subsection 3, and
8 information required to be reported by a recipient agency
9 pursuant to this Code section available to the public.

10 Code chapter 8G, establishing the taxpayer transparency
11 Act, is amended to specifically include recipient entities,
12 as defined in Code chapter 8F, within the definition of
13 "entity" for purposes of the Code chapter. Code section
14 8G.4, concerning the creation of a searchable budget database
15 internet site, is amended to require that information required
16 to be provided pursuant to Code chapter 8F be included on the
17 site.